

MAR 05 2009

Board of Vocational Nursing
and Psychiatric Technicians

EDMUND G. BROWN JR., Attorney General
of the State of California
ALFREDO TERRAZAS
Senior Assistant Attorney General
ARTHUR D. TAGGART, State Bar No. 083047
Supervising Deputy Attorney General
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 324-5339
Facsimile: (916) 327-8643

Attorneys for Complainant

**BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. VN 2004-485

ALLEN LEE LEVERETT
Post Office Box 4237
Chico, California 95927

ACCUSATION

Vocational Nurse License No. VN 171394

Respondent.

Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") alleges:

PARTIES

1. Complainant brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians ("Board"), Department of Consumer Affairs.

License History

2. On or about March 29, 1995, the Board issued Vocational Nurse License Number VN 171394 ("license") to Allen Lee Leverett ("Respondent"). The license will expire on November 30, 2010, unless renewed.

///

JURISDICTION

3. Section 2875 of the Business and Professions Code ("Code") states, in pertinent part, that the Board may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with Code section 2875) of the Vocational Nursing Practice Act.

4. Code section 118, subdivision (b), states, in pertinent part, that the expiration of a license shall not deprive the Bureau of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

STATUTORY PROVISIONS

5. Code section 2878 states, in pertinent part:

The Board may suspend or revoke a license issued under this chapter [the Vocational Nursing Practice Act (Bus. & Prof. Code, § 2840, et seq.)] for any of the following:

(a) Unprofessional conduct, . . .

(f) Conviction of a crime substantially related to the qualifications, functions, and duties of a licensed vocational nurse, in which event the record of the conviction shall be conclusive evidence of the conviction.

6. Code section 2878.5 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist or podiatrist administer to himself or herself or furnish or administer to another, any controlled substance as defined in Division 10 of the Health and Safety Code, or any dangerous drug as defined Section 4022.

(b) Use any controlled substance as defined in Division 10 of the Health and Safety Code, or any dangerous drug as defined in Article 8 (commencing with Section 4210) of Chapter 9 of Division 2 of this code, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public, or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

1 (c) Be convicted of a criminal offense involving
2 possession of any narcotic or dangerous drug, or the prescription,
3 consumption, or self-administration of any of the substances
4 described in subdivisions (a) and (b) of this section, in which event
5 the record of the conviction is conclusive evidence thereof.

6 7. Code section 2878.6 states, in pertinent part:

7 A plea or verdict of guilty or a conviction following a plea
8 of nolo contendere made to a charge substantially related to the
9 qualifications, functions and duties of a licensed vocational nurse
10 is deemed to be a conviction within the meaning of this article. . .
11 irrespective of a subsequent order under the provisions of Section
12 1203.4 of the Penal Code allowing such person to withdraw his
13 plea of guilty . . . , or setting aside the verdict of guilty, or
14 dismissing the accusation, information or indictment.

15 COST RECOVERY

16 8. Code section 125.3 provides, in pertinent part, that the Board may request
17 the administrative law judge to direct a licentiate found to have committed a violation or
18 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
19 and enforcement of the case.

20 FIRST CAUSE FOR DISCIPLINE

21 (Criminal Convictions)

22 9. Respondent has subjected his license to disciplinary action under Code
23 section 2878, subdivision (f), in that Respondent has been convicted of crimes substantially
24 related to the qualifications, functions or duties of a vocational nurse, as follows:

25 a. On or about December 9, 1997, in the Superior Court of California,
26 County of Butte, in the case entitled, *People of the State of California v. Allen Lee Leverett*
27 (Super. Ct. Butte County, 1997, Case No. CM10071), Respondent was convicted on his plea of
28 guilty of violating Penal Code section 273.5, subdivision (a) (Corporal Injury Spouse), a
misdemeanor. The circumstances of the conviction are that on or about August 6, 1997,
Respondent did willfully and unlawfully inflict corporal injury resulting in a traumatic condition
upon R.L.

b. On or about September 29, 1998, in the Superior Court of California,
County of Plumas, in the case entitled, *People of the State of California v. Allen Lee Leverett*

1 (Super. Ct. Plumas County, 2000, Case No. 98-24494), Respondent was convicted on his plea of
2 no contest of violating Vehicle Code section 23152, subdivision (a) (Driving Under the Influence
3 of Alcohol and/or Controlled Substance or Under Their Combined Influence) and Penal Code
4 section 415 (Disturbing the Peace), both misdemeanors. The circumstances of the conviction are
5 that on or about July 27, 1998, Respondent did willfully and unlawfully drive a vehicle while
6 under the influence of alcoholic beverages and/or drugs, and/or their combined influence and
7 disturb the peace.

8 c. On or about October 4, 2001, in the Superior Court of California, County
9 of Butte, in the case entitled, *People of the State of California v. Allen Lee Leverett* (Super. Ct.
10 Butte County, 1999, Case No. CM012672), Respondent was convicted on his plea of guilty of
11 violating Health and Safety Code sections 11377, subdivision (a) (Possession of a Controlled
12 Substance), a felony, and 11550, subdivision (a) (Under the Influence of a Controlled Substance),
13 a misdemeanor. The circumstances of the conviction are that on or about July 6, 1999,
14 Respondent did unlawfully possess, use, and be under the influence of a controlled substance, to
15 wit: Methamphetamine.

16 d. On or about April 12, 2004, in the Superior Court of California, County of
17 Butte, in the case entitled, *People of the State of California v. Allen Lee Leverett* (Super. Ct.
18 Butte County, 2004, Case No. CM020424), Respondent was convicted on his plea of no contest
19 of violating Penal Code section 245, subdivision (a)(1) (Assault with a Deadly Weapon), a
20 misdemeanor. The circumstances of the conviction are that on or about July 1, 2004, Respondent
21 did assault M. T., his spouse, and T.T., his stepdaughter, with an axe.

22 **SECOND CAUSE FOR DISCIPLINE**

23 **(Possession and Self-Administer a Controlled Substance)**

24 10. Respondent has subjected his license to disciplinary action under Code
25 section 2878, subdivision (a), on the grounds of unprofessional conduct, as defined in Code
26 section 2878.5, subdivision (a), in that Respondent possessed and self-administered a controlled
27 substance, without lawful authority therefor, as set forth in paragraph 9, subdivision c, above.

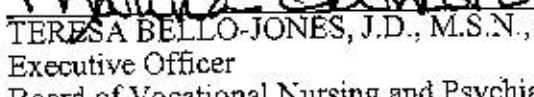
28 ///

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians issue a decision:

1. Revoking or suspending Vocational Nurse License Number VN 171394 issued to Allen Lee Leverett;
2. Ordering Allen Lee Leverett to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: March 5, 2009


TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant